

REMARKS

The specification and claim 1 have been objected to by the Examiner in that pages 6-8 and 12-14 of the specification and claim 1 include equations that are not clearly legible. To comply with the Examiner's objections, a new set of equations for both the specification and claim 1 has been provided.

The claims have been objected to for the reasons set forth in paragraphs 3-6 of the Examiner's Office Action letter. These objections are respectfully traversed.

As the Examiner will note, the claims have been amended in an effort to eliminate all of the objections raised by the Examiner and accordingly, it is believed that these objections have been eliminated.

Claims 1-5 have been rejected by the Examiner under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. This rejection is respectfully traversed.

As the Examiner will note, claims 1-4 have been amended, claim 5 has been cancelled and claim 6 has been added to the present application. It is believed that amended claims 1-4 and newly added claim 6 clearly conform with US patent practice in defining the metes and bounds of the respective claims. In this connection, the rejections raised by the Examiner in paragraphs 8b, 8c, 8e and 8f have been eliminated by the amendments made to the relevant claims. In connection with the rejection raised by the Examiner in paragraph 8d, the expression "train rate tensor" should be "strain rate tensor." The Applicants have amended claim 1 to eliminate this clerical inadvertency.

Claims 1-5 have been rejected by the Examiner under 35 USC 101 because the claimed invention is directed to non-statutory subject matter. This rejection is respectfully traversed.

As the Examiner will note, the claims have been amended, taking into consideration the Examiner's remarks provided in paragraphs 10a - 10c of the Examiner's Office Action letter, and accordingly, it is believed that the rejection of the claims under 35 USC 101 has been eliminated.

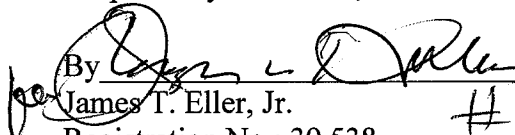
It is noted with appreciation, that the Examiner has indicated that claims 1-5 appear to contain allowable subject matter. Although claim 5 has been cancelled from the present application, it is believed that in view of the above amendments and remarks, amended claims 1-4 and newly added claim 6 are now allowable and that the present application is in condition for allowance. Accordingly, reconsideration of the objections and rejection and allowance of all of the claims of the present application are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Joseph A. Kolasch, Reg. No. 22,463 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: December 4, 2009

Respectfully submitted,

By 
James T. Eller, Jr. #22463
Registration No.: 39,538
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant